



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

July 16, 2004

Dear Permit Holder:

The purpose of this letter is to inform you of new guidance concerning vessel ownership requirements for the purpose of processing vessel replacements. Northeast Region NOAA General Counsel staff have recently provided guidance concerning ownership rights, particularly where a corporation is involved. The following guidelines were developed based on their legal guidance.

Guidelines for Vessel Ownership Requirements for Vessel Replacements

The following guidelines describe vessel ownership requirements for purposes of conducting a vessel replacement:

1. The qualifying vessel or permit(s) being held in a confirmation of permit history (CPH) must be under the same ownership as the replacement vessel.
2. In the case of vessels with multiple owners (that are not corporations), there must be at least one common owner between the qualifying vessel or CPH, and the replacement vessel.
3. In the case of corporations, including Limited Liability Corporations (LLCs), a stockholder certificate, showing that an individual is a shareholder in the organization owning the vessel, is not sufficient evidence to prove that the individual has ownership rights to the corporation's assets (i.e., the vessel and its permits). Therefore, if the qualifying vessel and replacement vessel are owned by different corporations (even if the corporations are under the sole ownership and control of the same individual) a bill of sale is required to transfer an ownership interest in the replacement vessel to the owner of the qualifying vessel (or vice versa). The bill of sale may be a few sentences stating how much ownership interest is being transferred (i.e., 2 percent), and for what sum of money (i.e., one dollar). The same is also true in cases where the one vessel is under the ownership of one individual, while the other vessel is owned by a corporation (even if the corporation is under the sole ownership and control of the same individual).

If you have any questions concerning these guidelines, please contact any of the Fishery Management Specialists on my staff by calling (978) 281-9315, and they will be able to assist you.

Sincerely,

George H. Darcy
Assistant Regional Administrator
for Sustainable Fisheries

